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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

USA CONTAINERS LLC, a Utah limited
liability company

Plaintiff,

vs.

WILLIAM J. SMITH, III, an individual,

Defendant.

VERIFIED COMPLAINT

Case No. _____

Judge _____

Plaintiff, USA Containers LLC, by and through its attorneys of record, hereby alleges, asserts, and complains against Defendant William J. Smith III as follows:

PARTIES AND JURISDICTION

1. Plaintiff USA Containers LLC (“Plaintiff” or “USA Containers”) is a registered limited liability company in the state of Utah with its principal office or place of business located at 1361 N. Old Lincoln Highway, Grantsville, UT 84029.

2. None of the members of USA Containers resides or has a principal place of business in Idaho.

3. Upon information and belief, Defendant William J. Smith III (“Defendant” or “Smith”) is an individual residing in Canyon County, Idaho, at 7618 East Willard Drive, Nampa, Idaho 83687, and who conducts business under the Idaho-registered assumed business name of “Patriot Containers.”

4. Plaintiff’s claims arise from statements made and being made and information published and being published targeting denizens of the state of Utah and others which have resulted in harm to Plaintiff in excess of \$75,000.00, which harm is continuing.

5. On these bases, this Court has diversity subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

6. The Court also has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1367.

7. This Court has personal jurisdiction over Defendant because Defendant intentionally directed his statements to a Utah audience and intended to particularly harm the Plaintiff in the state of Utah.

8. Venue is properly laid in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred in Utah.

GENERAL ALLEGATIONS

9. USA Containers purchases, sells, and rents new and used shipping containers across all 48 contiguous states within the United States.

10. On information and belief, Smith also purchases, sells, and rents new and used shipping containers throughout the United States under the registered Idaho assumed business name of “Patriot Containers.” A copy of the Certificate of Assumed Business Name is attached as **Exhibit A**.

11. According to his website, Smith sells containers in at least Texas, Oklahoma, Louisiana, California, Arizona, Nevada, Idaho, New Mexico, and Oregon.

12. Upon information and belief, Smith maintains various social media accounts in the name of “Patriot Containers” that he generally uses to promote his container business.

13. In particular, Smith maintains a YouTube channel for Patriot Containers under the handle @patriotcontainers4349 on which he publishes videos to promote his business and advertise his product.

14. Smith’s YouTube channel is publicly accessible and as of the filing of this Complaint had 289 regular subscribers.

15. Upon information and belief, up until February 2025, Smith’s YouTube channel was dedicated to promoting his own business through videos focused on demonstrating the quality of his container products and hosting miscellaneous home videos.

16. However, in February 2025, Smith started posting a barrage of videos disparaging his competitors, including USA Containers.

17. As of April 25, 2025, Smith has created and published at least thirteen videos directly discussing USA and tagged USA in several other videos.¹

¹ The videos are **Exhibit B** to the Complaint. However, because they cannot be electronically filed, USA Containers submitted copies of the videos to the Court via a Nonelectronic Filing as required by DUCivR 7-5(b)(2) and ECF Procedures Manual III.C.4.

18. Many of the videos involve Smith reading customer reviews left on the webpages hosted by Google, Yelp, and the Better Business Bureau for USA. Smith reads the reviews and then offers commentary about USA, cargo container types and standards, and his own business.

19. Smith also published videos conveying a secretly recorded call with one of USA's sales agents in which Smith disguises himself as "Ed Jacobson," a customer interested in purchasing a container. In both videos focused on this covert call, Smith disparages the sales agent and USA after the call.

20. Several of the videos discussing USA bear a location tag of "UTAH" amplifying the visibility of the videos to Utah-based viewers.

21. Smith's goal in publishing these videos is to damage the reputation of USA and include the following:

- a. "I think you're liars. I think you're cheaters. I think you're scum and you, you've pushed me too much to where I'm going to make these videos every day and I enjoy it and I'm going to expose to the world everything that's bad about you guys."²
- b. "And you're scared to mention Patriot Containers because you don't want people to see . . . how I'm exposing you guys and it's not going to stop. Andrei, freaking idiot." (referring to Andrei Popa, the founder of USA).³
- c. "I'm not backing down now. You guys have created this with me personally. And, these videos are not going to stop—they're not. And . . . I'm just going to keep making them. And eventually they're going to trend. Eventually they're going to

² Ex. B, February 23, 2025 "Reading USA CONTAINERS Complaints & Negative Reviews on Yelp."

³ Ex. B, March 29, 2025 "Reading BBB Complaints USA Containers Reviews."

be right next to your website. Eventually they're going to be, um, it's going to be everywhere. I'm not going to stop them. They're going to keep coming.”⁴

22. Smith published videos to his YouTube channel with numerous statements accusing USA of doctoring their online reviews, not honoring warranties, or otherwise engaging in business practices contrary to what USA advertises including:

- a. “They have an A rating because they write false reviews that are fake five-star reviews.”⁵
- b. “They have an A rating because they pay the Better Business Bureau money every year.”⁶
- c. “I’ve caught these companies purchasing fake reviews.”⁷
- d. “This is not real, people. They purchase fake reviews. They, they pay money to the Better Business Bureau to be accredited.”⁸
- e. “And on top of it, you pay, you pay for fake five-star reviews.”⁹
- f. “These people probably have 1 or 2 star rating but they purchase fake reviews through overseas companies all the time on a daily basis.”¹⁰
- g. “These companies have been caught red-handed many times writing fake positive reviews on Facebook, on Google, and the Better Business Bureau.”¹¹

⁴ Ex. B, March 13, 2025 “Reading USA Containers 1 Star Yelp Complaints.”

⁵ Ex. B, March 29, 2025 “Reading BBB Complaints USA Containers Reviews.”

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Ex. B, March 25, 2025 “USA Containers The Part They Did NOT Show You BBB Complaints & Reviews.”

¹¹ Ex. B, March 24, 2025 “Scams & Bad Cargo Container Companies Warning.”

- h. “And then on top of it you pay, you pay for fake five-star reviews everywhere.”¹²
- i. “They’ll sell you a container with holes in it and then they’ll send you a patch kit and then if they sell you a shitty container where you can’t open the doors they’ll sell you a metal pipe.”¹³
- j. “You want to be educated on what these borderline scam bad companies are doing to you. So, number one, these guys do not honor their warranties. Um, they deliver damaged products sometimes in the middle of the night. They also, um, uh, they have you sign a contract in the beginning of your order so if they take one to six months to deliver your container and give you every runaround lie, uh, about why they’re not delivering. They have a cancellation fee and that can vary from 350 to 500 to 750 or, or its just . . . a number that you’re, you guys are authorizing when you sign their contract in the very beginning so if you cancel 5 minutes later—boom cancellation fee. They even have restocking fees for containers that never even left the depot and they charge you a restocking fee. However, they word it by the contracts you guys are signing is locking you into this.”¹⁴
- k. “You’re not accountable for anything ever. You don’t help your customers. You guys, you guys are like in my eyes a scam company. You make your customers sign contracts that basically say they’re damned if they do and damned if they don’t. And you have a restocking fee or you have a cancellation fee. You say you do cash

¹² Ex. B, March 29, 2025 “Reading BBB Complaints USA Containers Reviews.”

¹³ *Id.*

¹⁴ Ex. B, March 24, 2025 “Scams & Bad Cargo Container Companies Warning.”

on delivery but you don't do cash on delivery. You say you'll bring it out on and you have to put a credit card on file but you won't charge it.”¹⁵

- l. “A real company sells good used containers and good new containers. You could, I guess, you could sell wind-and-water tight, but you guys are delivering as-is junks with holes.”¹⁶
- m. “A lot of these companies say they have a 25-year, one-year, lifetime warranty of no leaks, but they'll deliver you a container that blatantly has holes in it because their drivers are not inspecting and these companies are purchasing damages and as-is containers for you guys, and they're getting away with it by calling it wind-and-water tight or cargo-worthy. Their driver's do not inspect their containers.”¹⁷
- n. “You have to sign a contract in order for them to bring you out a container and then you're going to put a credit card on file.”¹⁸
- o. “What they'll do is they'll charge you the delivery upfront and then a cancellation fee—um—I think she was blatantly lying about their cancellation fees. I, I . . . um, I truly think she was lying about 80% of what she was saying.”¹⁹
- p. “They're not selling with truth.”²⁰
- q. “They don't use the truth, they don't deliver on time, and they're never accountable.”²¹

¹⁵ Ex. B, March 29, 2025 “Reading BBB Complaints USA Containers Reviews.”

¹⁶ *Id.*

¹⁷ Ex. B, March 24, 2025 “Scams & Bad Cargo Container Companies Warning.”

¹⁸ Ex. B, March 26, 2025 “Calling USA Containers Sales Rep, Many Problems & Misleading.”

¹⁹ *Id.*

²⁰ Ex. B, February 24, 2025 “Reading BBB Complaints for USA Containers Reviews.”

²¹ *Id.*

- r. “I think they claim to have all these different locations, which they don’t. They just have probably salespeople’s houses. I don’t know that for a fact, but I’m pretty sure I’m right.”²²
 - s. “I wouldn’t be making these videos if these guys played fair and took care of their customers and actually did the right thing for their customers. But, they’re not playing fair.”²³
23. Every statement contained in the above list, including each portion there within Subsections a. through s., is false.
24. Smith further published and is publishing comments about USA and their business practices in the description of the videos on his YouTube channel, including:
- a. “They [USA] do NOT Honor Their Warrantees!”²⁴
 - b. “They [USA] Take Months to Deliver and will still make \$\$\$ when you cancel.”²⁵
 - c. “They [USA] Have Cancellation Fees or Restocking Fees.”²⁶
 - d. “These people probably have 1 or 2 start rating but they purchase fake reviews through overseas companies all the time on a daily basis.”²⁷
 - e. “Nationwide biggest fake company ripping people off and selling with lies.”²⁸
25. Defendant’s statements published and being published on his YouTube channel are false.

²² *Id.*

²³ Ex. B, March 13, 2025 “Reading USA Containers 1 Star Yelp Complaints.”

²⁴ Ex. B, March 25, 2025 “USA Containers The Part They Did NOT Show You BBB Complaints & Reviews.”

²⁵ *Id.*

²⁶ Ex. B, March 24, 2025 “Scams & Bad Cargo Container Companies Warnings.”

²⁷ Ex. B, March 25, 2025 “USA Containers The Part They Did NOT Show You BBB Complaints & Reviews.”

²⁸ *Id.*

26. Smith also published and is publishing statements accusing USA of not being an American Company:

- a. “They’re not an American company.”²⁹
 - b. “USA Containers, their employees are not in the United States so ask yourself if you want to do business with these guys.”³⁰
27. USA Containers does not doctor its online reviews or purchase fake reviews.
28. USA Containers honors its warranties to its customers.
29. USA Containers does not charge a cancellation fee if the order is cancelled five minutes after the order.
30. USA Containers does not charge a restocking fee for containers that did not leave the depot.
31. USA Containers does not lie to its customers.
32. USA Containers is an American company headquartered in Utah and with its employees in the United States of America.
33. Smith’s published statements, construed absolutely, are false.
34. As a direct and proximate result of Defendant’s false and defamatory statements, USA Containers’ business reputation has suffered and will continue to suffer substantial harm, including loss of goodwill, competitive market position, diminished sales, and harm to reputation

²⁹ Ex. B, February 24, 2025 “USA CONTAINERS NOT American Employees! PROOF!”

³⁰ *Id.*

FIRST CLAIM FOR RELIEF

(Defamation Per Se)

35. USA Containers incorporates the foregoing allegations as if restated in full herein.

36. Smith made non-privileged statements of fact to third parties about USA Containers, about USA Containers' business practices, and/or about USA Containers' products and services.

37. Smith's statements are of alleged conduct that is incompatible with the exercise of a lawful business, trade, profession, or office and are false.

38. Smith made such defamatory statements with the intent that they injure the USA Containers' reputation and damage USA Containers' business.

39. Smith has stated his intent to continue spreading malicious and demonstratively false claims about USA Container which shall continue to harm USA unless Defendant is permanently enjoined from publishing such false statements.

40. USA Container has suffered and will continue to suffer irreparable harm unless injunctive relief is granted prohibiting Smith from publishing, posting, re-publishing, repeating, directing others to publish or repeat, or otherwise disseminating false and defamatory statements concerning USA Containers and the purchase of "fake" reviews, status as an American company, sale of defective and or misrepresented products, or misleading and or fraudulent business practices.

41. The threatened injury of reputational and financial harm to USA Containers outweighs any damage to Smith in not publishing such defamatory information.

42. The order or injunction will not be adverse to the public interest because the public has no interest in false and defamatory statements; rather, public interest lies in protecting lawful enterprises from demonstrably false attacks by competitors.

SECOND CLAIM FOR RELIEF

(Defamation)

43. USA incorporates the foregoing allegations as if restated in full herein.

44. Smith made non-privileged statements of fact to third parties about USA Containers, about USA Containers' business practices, and/or about USA Containers' products and services.

45. Smith's statements were false and defamatory.

46. Smith made such defamatory statements with the intent that they injure the USA Containers' reputation and damage USA's business.

47. Smith's false statements have caused financial, reputational, and other injury to the USA.

48. Smith has stated his intent to continue spreading malicious and demonstratively false claims about USA Containers which shall continue to harm USA Containers unless Defendant is permanently enjoined from publishing such false statements.

49. USA Containers will suffer irreparable harm unless injunctive relief is granted which prohibits Smith from publishing, posting, re-publishing, repeating, directing others to publish or repeat, or otherwise disseminating false and defamatory statements concerning USA Containers and the purchase of "fake" reviews, status as an American company, sale of defective and or misrepresented products, or misleading and or fraudulent business practices.

50. The threatened injury of reputational and financial harm to USA Containers outweighs any damage to Smith in not publishing such defamatory information.

51. The order or injunction will not be adverse to the public interest because the public has no interest in false and defamatory statements; rather, public interest lies in protecting lawful enterprises from demonstrably false attacks by competitors.

THIRD CLAIM FOR RELIEF

(Lanham Act – 15 U.S.C. § 1125(a)(1))

52. USA incorporates the foregoing allegations as if restated in full herein.

53. Smith in the connection with his business made false or misleading representations of fact in commercial advertising or promotion regarding the nature, characteristics, qualities, or geographic origin of USA Containers' goods, services, or commercial activities.

54. Smith's false statements have damaged and are likely to continue to damage USA Containers' reputation and business.

55. Therefore, Smith is liable under 15 U.S.C. § 1125(a)(1).

56. Smith has stated his intent to continue spreading malicious and demonstratively false claims about USA Containers which shall continue to harm USA Containers unless Defendant is permanently enjoined from publishing such false statements.

57. USA Containers will suffer irreparable harm unless injunctive relief is granted which prohibits Smith from publishing, posting, re-publishing, repeating, directing others to publish or repeat, or otherwise disseminating false and defamatory statements concerning USA Containers and the purchase of "fake" reviews, status as an American company, sale of defective and or misrepresented products, or misleading and or fraudulent business practices.

58. The threatened injury of reputational and financial harm to USA Containers outweighs any damage to Smith in not publishing such false information.

59. The order or injunction will not be adverse to the public interest because the public has no interest in false and defamatory statements; rather, public interest lies in protecting lawful enterprises from demonstrably false attacks by competitors.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in his favor against Defendant as follows:

- A. Entry of a temporary restraining order, preliminary injunction, permanent injunction, and any other condign equitable relief;
- B. An award of damages in an amount to be shown at trial;
- C. An award to Plaintiff of its reasonable attorney fees and costs incurred in pursuit of this claim, to the extent permitted by law; and
- D. Such other and further relief as the Court may deem just and proper.

DATED this 2nd day of May 2025.

KIRTON McCONKIE

/s/ Benson L. Hathaway, Jr. _____
Benson L. Hathaway, Jr.
Ryan C. Cadwallader
Alyssa K. Nielsen
Attorneys for Plaintiff

[Verification on the Following Page]

VERIFICATION

The undersigned, Andrei Popa, declares and states: I am over twenty-one years of age and verify the attached Verified Complaint. I am an owner and a principal of USA Containers LLC, the Plaintiff in the foregoing action, and am familiar with the contents of the foregoing Verified Complaint. The allegations in the Verified Complaint are true as stated to the extent of my knowledge, except as to matters alleged upon information and belief, and as to those matters, I believe the same to be true.

Pursuant to Utah Code §§ 78B-18a-101 *et seq.*, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

SIGNED on the 1st day of May 2025, at Salt Lake County, Utah.

/s/ Andrei Popa (with permission)
Andrei Popa